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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/920,317	08/01/2001	Stephen L. Heston	1588-3455	5053

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KEITH A. CUSHING
Registered Patent Attorney
4201 S.W. VACUNA STREET
PORTLAND, OR 97219

EXAMINER

LOWE, MICHAEL S

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/920,317

Applicant(s)

HESTON ET AL.

Examiner

M. Scott Lowe

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/17/03 in amendment B.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 17 April 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Drawings

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 4/17/03 have been approved. A proper drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The correction to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-2, 5-8, 12, 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Ouellette (US 6,371,720).

Re claim 1, Ouellette (figure 1) teaches an infeed conveyor 12 delivering serially items for stacking; a row conveyor 16 receiving selected ones of items from the infeed conveyor 12 and a layer head 18 receiving the items from the row conveyor 16; said row conveyor 16 and layer head 39 being reciprocated vertically and independently.

Re claim 2, Ouellette teaches the layer head 18 occupying a space above at least one of a pallet and a stack of layers on a pallet and discharges a layer of items

through a floor thereof (as described by applicant in the specification the term "floor" is really just an empty space at the time the layer is lowered and thus this claim as written does not limit away from this reference).

Re claim 5, Ouellette teaches a pivoting dead plate 24.

Re claim 6, Ouellette teaches pivoting side plates 22.

Re claim 7, the side 22 and dead plates 24, 26 form a layer condition mechanism.

Re claim 8, the plates compress the layers in mutually orthogonal dimensions.

Re claim 12, Ouellette teaches a row conveyor 16 receiving selected ones of items from the infeed conveyor 12 and moving the row conveyor to a height coincident with a layer head 18,C and the layer head 18, C receiving the items from the row conveyor 16 and then dropping the layer through the floor onto a stack of layers.

Re claim 13, Ouellette teaches conditioning by compressing a layer of items on the layer head and dropping the layer through the layer head "floor".

Claims 1-4, 9-14 are rejected under 35 U.S.C. 102(e) as being anticipated by Heston (US 6,533,533).

Re claim 1, Heston (figure 19) teaches an infeed conveyor 602 delivering serially items for stacking; a row conveyor 500 receiving selected ones of items from the infeed conveyor 602 and a layer head 700 receiving the items from the row conveyor 500; said row conveyor 500 and layer head 700 being reciprocated vertically and independently.

Re claim 2, Heston teaches the layer head 700 occupying a space above at least one of a pallet and a stack of layers on a pallet and discharges a layer of items through a floor thereof.

Re claim 3, Heston teaches the floor of the layer head 700 comprises a set of free rollers spanning a pair of chains and movable between a floor position and an open position which allows a layer to drop through a plane corresponding to said floor position.

Re claim 4, the layer head 700 includes at least one upward facing support surface 758 adjacent the rollers when the rollers are positioned in said floor position.

Re claim 9, Heston teaches the layer head 700 including a pair of chains maintained in a generally L-shaped path and carrying thereacross and along corresponding segments thereof a set of free rollers occupying a floor position when located along a horizontal portion of said L-shaped path and occupying an open position when located along a vertical portion of said L-shaped path.

Re claim 10, Heston teaches the layer head 700 (figure 15) including a set of free rollers movable between a floor position and an open position, said rollers having a length corresponding to a tightly-packed layer resting thereon when said rollers are in said floor position and dropping said layer through a plane containing said floor position when moved to said open position.

Re claim 11, Heston teaches a pair of upward facing support surfaces 704 at respective ends of said rollers when located in the floor position.

Re claim 12, Heston teaches a row conveyor 500 receiving selected ones of items from the infeed conveyor 602 and moving the row conveyor to a height coincident with a layer head 700 and the layer head 700 receiving the items from the row conveyor 500 and then dropping the layer through the floor onto a stack of layers.

Re claim 13, Heston teaches compressing a layer against plate 758 prior to dropping layer.

Re claim 14, Heston teaches moving rollers during step of dropping a layer.

Conclusion

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to M. Scott Lowe whose telephone number is 703-305-1940. The examiner can normally be reached on 6:30am-4:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on 703-308-3248. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


EILEEN D. LILLIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

msl
June 16, 2003